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Stevens (*supra*), this statute was interpreted as restoring the law as laid down in *Williams v. Williams*, thus returning to the English doctrine. The principal case, in addition, intimates that the Supreme Court is by the new law vested with the power of *cy prés*, but this is quite unnecessary to the decision.

CORPORATIONS—ISSUING STOCK BELOW PAR.—In *Donald v. American Smelting and Refining Co.* (N. J. Eq., 1901) an action was brought to enjoin the defendants from entering into a contract with M. Guggenheim's Sons, whereby the latter were to receive an issue of new stock of the defendant company to the value of \$45,000,000 in return for \$12,000,000 cash and the Guggenheim smelting plants, which had an estimated value exclusive of good-will of eight to ten millions. The New Jersey Corporation Act (P. L., 1896, p. 277) provides, § 49: Any corporation formed under the Act may purchase necessary property and "issue stock to the amount of the value thereof in payment therefor." The Court of Errors and Appeals reversing the decision of STEVENS, V. C., granted the injunction. The statute did not permit the issue of stock below par, and although it declared that in the absence of fraud the judgment of the directors as to the value of the property should be final, this latter applied only to a case where the stock had already been issued. When the question is one of *prevention* and not of *remedy*, the court will enjoin an issue below par, notwithstanding the *bona fides* of the directors. The fact that the contract of purchase was advantageous and caused a rise in the market value of the stock was immaterial, as was also the fact that the comparative values of the plants showed that the purchase might have been for the full market value of the stock issued.

In comparison with the New Jersey statute and the foregoing decision, it is interesting to note the New York law. Section 42 of the Stock Corporation Law as amended 1901 is substantially as follows: "No corporation shall issue either stock or bonds except for money, labor done or property actually received for the use and lawful purposes of such corporation"; stock may be issued to the amount of the necessary property bought, and "in the absence of fraud the judgment of the directors shall be considered conclusive." The Act of 1901 omits the former clause, stating that no stock shall be issued for less than its par value. In *Van Cott v. Van Brunt*, 82 N. Y., 535 (1880), the question being as to the liability of shareholders knowingly receiving the stock in payment for work done at a market valuation much below par, the court held that the issue being at the actual value of the stock the defendants were not liable. (See criticism in Morawitz on Corporations, § 826.) In *Gamble v. Queens County Water Co.*, 123 N. Y., 91, it was held that an issue below par could be enjoined. The case was distinguished from the previous one because of a different wording of the manufacturing statute, although the fact that the case was one of prevention and not of remedy would seem to have been sufficient

ground of distinction. It will be interesting to see what interpretation the courts will put upon the new statute in New York. The Legislature has evidently intended to reinstate the decision of *Van Cott v. Van Brunt*, but the wording of the statute is not more favorable to that ruling than is the wording of the New Jersey statute under which, in the principal case, an injunction was granted.
